

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
MARCH 22, 2016**

Place: Auditorium

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:  
Cameron, Cunningham, DiDonna, Olvany, Voigt

STAFF ATTENDING: Ginsberg  
RECORDER: Syat  
Channel 79

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Mrs. Cameron opened the meeting at 8 P.M. and read the first agenda item:

**PUBLIC HEARING**

**Continuation of Public Hearing regarding Proposed Amendment to the Darien Zoning Map (COZM #2-2016), Proposed Amendments to the Darien Zoning Regulations (COZR #3-2016), put forth by the Darien Housing Authority, 719 Boston Post Road.** Proposal to: 1) modify the Darien Zoning Map by applying the Municipal Use Zone to the subject property as an overlay zone; and 2) modify section 420 *et. seq.* of the Darien Zoning Regulations to modify the MU Zone to allow a maximum building coverage of 25 percent, and to permit more than one principal use on a parcel. The subject property is located on the north side of Boston Post Road at the northeast corner formed by its intersection with Academy Street, and is shown on Assessor's Map #16 as Lot #59, now in the DB-1/DBR Zone.

**AND**

**Continuation of Public Hearing regarding Site Plan Application #291/Special Permit, Land Filling & Regrading Application #378, Darien Housing Authority, 719 Boston Post Road.** Proposal to raze the residential structures on the property and construct 55 units of multi-family housing with associated parking and stormwater management and perform related site development activities. The subject property is located on the north side of Boston Post Road at the northeast corner formed by its intersection with Academy Street, and is shown on Assessor's Map #16 as Lot #59, now in the DB-1/DB-R Zone. *PUBLIC HEARING OPENED ON 2/23/2016, DEADLINE TO CLOSE PUBLIC HEARING IS 3/29/2016 UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Mr. Voigt said that he would be recusing himself on this matter and left the Auditorium. Attorney Bruce Hill was present on behalf of the applicant. He noted that revisions have been made to the plans. He then distributed a hard copy of the e-mail from Todd McClutchy to Olive Hauser. Mrs. Cameron asked that Mr. Hill respond to the letter from Attorney Amy Zabetakis of earlier today. Mr. DiDonna asked about the issue of the zone change regarding allowing two principal uses on the same property. Mr. Hill responded that he would be happy to withdraw that portion of the zone change request since he agrees with the Commission that it is not necessary.

Attorney Amy Zabetakis of Rucci Law Group was present on behalf of the neighbors. She stated that this is not a Town project and that the Darien Housing Authority is not a Town entity. Mrs. Cameron said she tends to agree with Ms. Zabetakis on this issue. It was agreed that the MU Zone has also been

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used for the Library and the Police Department and that the subject property is not Town-owned land. Attorney Hill explained the existing situation and read from the Background of Purposes in Section 421 of the Zoning Regulations. Mr. Hill said that the phrase “public housing” was deliberately put into the Zoning Regulations. He said that the MU Zone was created for the establishment of the new Darien Library.

At about 8:25 P.M., Darien Housing Authority Commission Member Peter Bigelow spoke. He explained that when he was on the Planning & Zoning Commission, they wanted flexibility in the Regulations that would allow them to construct municipal buildings in the public interest. He said that flexibility of the MU Zone makes sense to use in this location. Attorney Hill said that the controls are located in Section 421 of the Regulations and noted the inclusion of the wording “public housing.” In his opinion, there is no question that this is a public purpose.

Attorney Zabetakis then said that Section 422 of the Zoning Regulations does not talk about public housing. This zone allows for greater housing and housing is not a listed use. Mr. Hill said that Section 422 is not a comprehensive list. Mrs. Cameron noted that Mr. Hill could have overlaid the MU Zone at The Heights at Darien, but chose not to. Mr. Hill confirmed that using the MU Zone at The Heights at Darien was discussed, but they went with townhouse style buildings there, and there is not enough property here to build townhouse style buildings. Mrs. Cameron noted that one other provision which they are invoking via the MU Zone is the allowance for up to 25% building coverage. Mr. Hill responded that that is needed here and Mr. Hill also mentioned that they are withdrawing the other proposed change in the Regulations which would allow more than one principal use on the property. He again confirmed that that has been withdrawn. Mr. Ginsberg then read aloud a portion from Section 424 of the Darien Zoning Regulations and Mr. Hill read aloud from Section 425 of the Regulations. Mr. Olvany asked how many units they would lose if the Commission were not to approve an increase from 20 to 25 % building coverage. Mr. Ginsberg noted that Sheet L-2.1 of the plans noted that the proposal is 22.3% building coverage. Mrs. Cameron said that her concern is the height of the proposed building. In response to a question, Mr. Bigelow said that the Darien Housing Authority has a waiting list of 400 people, many of whom are from Darien. He said that the current project does not comply with ADA requirements.

Ms. Anne-Lise Brown of 28 Academy Street said that there is a need for this housing. Mrs. Cameron confirmed that there is a real need in Darien. Mr. DiDonna then asked about the possibility of affordable housing for seniors at the Edgerton Street property. Commission members acknowledged that that is not the subject of this application and that what is or is not being proposed on Edgerton Street is beyond the control of this application. Mrs. Cameron said her only concern with this application at this point is building height rather than building coverage. Mr. Olvany said that he is okay with invoking the MU Zone here.

At about 9:25 P.M., Mrs. Cameron stated that she believed that there was enough feedback from the Commission on the MU Zone to proceed to issues related to the Site Plan and Special Permit. Mr. Ginsberg then introduced Mike Galante of F.P. Clark Associates and noted that Stantec, the applicant’s traffic consultant, did supplemental work which Mr. Galante has reviewed. Mr. Philip Katz of Stantec then presented his supplemental information. He said that the proposed new development of 55 units would result in 7 to 8 more peak hour trips daily. He believed that based upon his supplemental data, that one parking space per unit is appropriate in this specific situation.

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Mr. Hill again confirmed that there is a wait list of 400 people for the affordable housing at this site. It was noted that blocking off Academy Street would affect circulation throughout the site and that they can force a left turn from Old Town Hall Homes onto Academy Street southbound and not have cars turning right into the streets to the north. They can also sign the property so that there is no left turn entering Old Town Hall Homes from Academy Street. Mr. DiDonna noted that there is a need to amend the submission with the correct dates in the Stantec charts. The Planning & Zoning Commission then reviewed Page 8 showing traffic conditions.

At about 9:45 P.M., Michael Galante of F.P. Clark Associates reviewed his peer review letter. He said that, in his opinion, it is not recommended to restrict turning movements in and out of Academy Street due to the low volume. It is better to have proper circulation through the site. Mr. Galante also believed that one parking space per unit is appropriate for affordable senior housing at this location. He noted the need to have stop signs and stop bars on site at the driveway exits and entrances.

At about 9:55 P.M., Joe Canas, Professional Engineer from Tighe & Bond, said that he has been hired to peer review the application. He then reviewed his March 21, 2016 letter with one minor comment to add screening. He said that his first letter was dated February 1, 2016. He noted that more infiltrators have been added on these revised plans and the most recent set of plans that he reviewed was dated March 18, 2016. Mrs. Cameron said that there is a need for revised plans. Mr. Hill said that he would be amenable to continuing the public hearing to March 29<sup>th</sup> at 8:00 P.M. in the Auditorium of Town Hall. Ms. Zabetakis said it would be her preference that this not be the first agenda item since she has a conflict that night. Mrs. Cameron then asked if there was anyone in the audience who needed to speak tonight if they could not make the meeting on the 29<sup>th</sup>. Ms. Shannon Silsby of 42 Mansfield said that she lives at the corner of Highland and Mansfield Avenue and encouraged the Commission members to walk the neighborhood to get a sense of how the proposed development would fit in. Mr. Robert Fiordaliso of 31 Fairview Avenue also commented for the record. It was then agreed to continue the public hearing on this matter to March 29, 2016 at 8:00 P.M. in the Auditorium of Town Hall.

Mr. Voigt then rejoined the meeting, and at 10:15 p.m., Mrs. Cameron then read the following agenda item:

**Continuation of Public Hearing regarding Business Site Plan Application #290/Special Permit, Land Filling & Regrading Application #375, Shake Shack, 1340 Boston Post Road.** Proposing to construct a restaurant with outdoor dining, associated parking, and associated stormwater management, and to perform related site development activities. The property is situated on the south side of Boston Post Road approximately 225 feet northeast from its southerly intersection with Thorndal Circle, and is shown on Assessor's Map #63 as Lot #7-9 & #24-26, in the Service Business (SB) & R-1/3 Zones. *PUBLIC HEARING OPENED ON 2/2/2016, DEADLINE TO CLOSE PUBLIC HEARING IS 3/22/2016 UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Mr. Voigt said that he had reviewed the DVD of the prior hearing on this application, and is "up-to-speed" on this matter. Attorney Robert F. Maslan, Jr. was present on behalf of the applicant, introduced his team, and noted that they had recently obtained Architectural Review Board (ARB) approval. He said that, on the engineering front, the stormwater issues had been covered and there was a question about the existing curb cut.

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Mr. John Richer professional engineer of Tighe & Bond explained that the response letter outlines the rationale for the stormwater waiver based upon this property's specific location within the watershed. He said the site meets some of the requirements in the regulations for a waiver. They will be reducing the amount of runoff during all storms. He said that the Department of Transportation (DOT) system in Boston Post Road does not have sufficient capacity. Mrs. Cameron noted that the written documents referred to a Phase I and Phase II study of the property. Mr. David Genovese of Baywater Properties explained that they can submit those reports as part of the record in this matter.

Mr. Todd Ritchie, Professional Engineer of Woodard & Curran, explained that he had peer reviewed the stormwater management. He wanted to ensure that there was no on-site contamination. He noted that it would be important to obtain a drainage easement 15-20 feet wide extending from the south property line over the existing storm drain pipe. He is still torn over the intent of the Regulations regarding the fresh meadow approach. He acknowledged that this site is in the lower part of the watershed. He said that this area of Boston Post Road does already have issues. He also acknowledged that it is a small site, and they are reducing the peak rates. He said that whether to require the fresh meadow approach is up to the Commission. Mrs. Cameron then asked Mr. Ritchie if there was high ground water in this location. Mr. Ritchie said yes, they did find ground water six feet down, and this is a rather small property. Mr. Olvany said that this site is different and much smaller than the Old Town Hall Homes property, which was discussed earlier this evening. Mrs. Cameron said that she wishes to make things better relative to drainage. Mr. Olvany said that the proposed drainage system is much better than what is there now, which is nothing. Mr. Ritchie said that in his opinion, the proposed retaining wall needs to be engineered, if it will not have a concrete footing.

Mr. Richer explained the State of Connecticut DOT's concern about the proposed curb cut on Boston Post Road. Mrs. Cameron asked whether there could be an extra lane exiting the property such that someone could turn right as someone was waiting to turn left out of the property. Mr. Richer then reviewed turning movement plans. It was then noted that Shake Shack only expects one or two deliveries a week and that they would have garbage pick-up daily in the morning. It was mentioned that the State of Connecticut DOT felt that because of such a low volume of truck traffic, the curb cut as shown would be appropriate. There needs to be an increase of thirteen feet in the curb cut for the truck movement. That change will reduce the landscaped area, and make it more difficult for pedestrians, according to Mr. Richer. Mr. Ginsberg asked how DOT could ensure that any subsequent tenant would not change this. Mr. Maslan said that the Commission could condition the use on this tenant. Mr. Lou DeAngelis, Director of Construction of Shake Shack, said that there will be two major truck deliveries per week for food, and there will also be smaller truck deliveries. If it is hugely successful, a third weekly truck may be needed. The large truck deliveries will occur generally between 6:30-7 A.M.

Mr. Craig Yannes of Tighe & Bond said that he was hired to look at the traffic and parking issues related to this development. FP Clark agreed with the site generated traffic volumes. Mrs. Cameron asked about left turns leaving the site. Mr. Yannes responded on how many visitors would turn left and right out of the site--its is about even between left and right turns out of the site. Mr. DiDonna then asked about traffic volumes, and any possible impact of the now-vacant Land Rover/Jaguar building across the street.

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Mr. Yannes said that they did show on a revised plan the intersection sight distance which shows that they meet DOT requirements. He agreed with the recommendation to have a police officer on-site to direct traffic and assist in parking for the first few weeks after opening. Mr. Yannes then compared the Westport Shake Shack with the proposed Darien Shake Shack. He noted that the Westport Shake Shack was on 0.893 acres and had a building of 6,265 square feet, which includes an existing physical therapist. The Westport Shake Shack has 90 seats, 20 outdoor seats and 48 parking spaces. He noted that the Darien Shake Shack would be on 0.76 acres and have a 3,100 square foot indoor restaurant and an 800 square foot outdoor patio. There will be 140 seat for the Darien restaurant (100 interior and 40 outdoor) and 43 parking spaces. Mr. Ginsberg asked if there would be need to have an off-site parking, especially for employees. Mr. DeAngelis explained that they do expect a lot of take-out service at this location. Mr. Olvany then asked whether they would have any parking spaces specifically designated for take-out orders. Mr. DeAngelis said that they would not.

Mr. Michael Galante of FP Clark Associates explained that he has submitted a review letter dated March 22, 2016. He said that the two-lane exit drive would not be approved by the State of Connecticut DOT. He believed that the site should be designed for an SU-30 truck. He recommends the appropriate radius to accommodate these trucks. He was glad to see that the applicant has provided the necessary sight line information and did recommend that police be present during the opening two weeks of the restaurant, where larger than normal crowds could be expected.

There being no further questions from Commission members and no comments from members of the general public, Mr. Olvany made a motion to close the public hearing on this matter. That motion was seconded by Mr. Voigt and unanimously approved.

At 11:05 P.M., Chairman Cameron then read the next agenda item:

**Continuation of Public Hearing regarding Flood Damage Prevention Application #351, Land Filling & Regrading Application #374, Blas Hernandez, 15 Waverly Road.** Proposal to raze the existing residence and construct a replacement single-family residence and perform related site development activities within a regulated area. The subject property is located on the east side of Waverly Road approximately 450 feet south of its intersection with Shipway Road, and is shown on Assessor's Map #55 as Lot #32-33 in the R-NBD Zone. *PUBLIC HEARING ORIGINALLY OPENED 2/2/2016 AND WAS CONTINUED TO 2/23/2016. DEADLINE TO CLOSE PUBLIC HEARING IS 3/22/2016 UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Attorney Wilder Gleason was present on behalf of the applicant and said that they have worked on addressing concerns. He also distributed 11" x 17" map dated March 18, 2016 and a drainage report addendum also dated March 18, 2016. He explained that they have modified the swales in the back and side yards and pulled the elevation 8 contour away from the property line. They also moved the yard drains closer to the property line. They have included drains at the bottom of the retaining wall. Gleason said that they have extended the retaining wall. It was also recommended that they move the retaining wall two feet from the property line, pursuant to Mr. Canas' recommendation. Mrs. Cameron noted that the proposed swale is in the middle of the back yard and thus the applicant would not have a flat back yard. She was concerned about the property owner filling in the swale. Mr. Gleason said that the curtain drains would function well. Mr. Gleason said that they are in compliance with the Town's Regulations.

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Professional Engineer Wayne D'Avanzo explained the revised plans and noted that there was a swale in the yard. Attorney Gleason explained that the amount of fill had been reduced over the prior version of the plans. Attorney Gleason emphasized that the grades on the revised plans will be at or below the adjacent Benson property to the south. Some runoff will be collected and the retaining wall will have holes every six feet. It was mentioned that they are moving the retaining wall two feet away from the property line. Attorney Gleason said that while these plans do not show it, the retaining wall will be moved and the driveway will be shifted two feet. The drains would therefore all move two feet to the south and they would have the same driveway location. The backup out of the garage would also be reduced by two feet.

Mr. Olvany then asked whose idea was the filling throughout the property. Property owner Blas Hernandez responded that the filling and regrading was the architect's idea.

Professional Engineer Joe Canas of Tighe & Bond said that he was hired to peer review the stormwater management plan. He said that he has a first letter dated March 10, 2016. He mentioned that the applicant has used the updated rainfall information and updated the drainage maintenance information. He then submitted a March 17, 2016 letter with additional concerns. He said that all of his comments have now been addressed. Mr. Canas emphasized fill in and of itself does not generate runoff. Mr. Canas then mentioned that there was a problem with the title block and revision block and he confirmed for the Commission that the plans which he reviewed did not have the correct revision date of March 18, 2016.

Commission members noted that Mr. Gleason explained changes to the proposal this evening that they would like to see on actual plans. They then agreed to continue the public hearing on this matter to April 5, 2016 at 8 P.M. in Darien Town Hall.

There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved. The meeting was adjourned at 11:25 P.M.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning & Zoning Director

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